

UNITED STATES DISTRICT
WESTERN DISTRICT OF LOUISIANA
LAKE CHARLES DIVISION

RAYMOND HARVEY

CIVIL ACTION NO:

VS.

JUDGE:

PRELOAD, LLC

MAGISTRATE:

NOTICE OF REMOVAL

NOW COMES Preload, LLC ("Preload") as the sole defendant in the state court suit filed by Raymond Harvey pending in the 14th JDC for the Parish of Calcasieu, State of Louisiana, Docket # 2020-3737, Division G, and files this Notice of Removal to the United States District Court for the Western District of Louisiana, under 28 U.S.C. §1441(b) (diversity of citizenship) expressly reserving any and all defenses and exceptions available in state court should this case be remanded represents as follows:

1.

On January 25, 2021 counsel for Preload was provided a courtesy copy of the Petition for Damages in this matter.¹ On February 12, 2021, Preload was served with the Petition.² Accordingly, this Notice of Removal has been filed within thirty days of receipt by Preload of a copy of the Petition setting forth the claim for relief upon which this action is based.

2.

Preload hereby specifically reserves any and all rights to assert as defenses to the Petition all defenses permitted by Rule 12 of the Federal Rules of Civil Procedure as well as all other

1 Exhibit "A" - e-mail transmission and Petition.

2 Exhibit "B" - citation and Petition.

jurisdictional, procedural, and venue defenses, in addition to all defenses to the merits of the action.

3.

No further proceedings have been had in the 14th JDC for the Parish of Calcasieu, State of Louisiana, as of the date this Notice of Removal was filed.

4.

Preload removes this action from the 14th JDC for the Parish of Calcasieu, State of Louisiana, to the United States District Court for the Western District of Louisiana, pursuant to 28 U.S.C. §§1332 (a)(1) and 1441(b) - diversity jurisdiction. Removal is appropriate under these provisions when the removing defendant shows:

- 1) that there is diversity of citizenship between the plaintiff and defendant;
- 2) that the removing defendant is not a citizen of the state in which the action was brought; and,
- 3) the jurisdictional amount is satisfied.

5.

According to the Petition, plaintiff, Raymond Harvey, is a Louisiana citizen.³ Preload, LLC is Kentucky limited liability company with its principal place of business in the State of Kentucky.⁴ Moreover, at the time of the filing of this Notice of removal, none of the members of Preload, LLC are citizens of Louisiana. Consequently, complete diversity exists, and the removing defendant is not a citizen of Louisiana.

3 Exhibit "A" – Petition, opening paragraph.

4 Exhibit "C" - Harvey Affidavit.

6.

The jurisdictional amount is also satisfied. In the Petition, the plaintiff alleges he fell five stories, “suffered serious injuries, including significant spinal and orthopedic injuries” and that his “damages are legally sufficient to warrant a jury trial and are sufficient for federal court jurisdiction.”⁵

7.

Pursuant to 28 U.S.C. §1446(d), Preload will serve counsel for the plaintiff with written Notice of Filing and shall file a copy of the Notice with the Clerk of Court of the 14th JDC for the Parish of Calcasieu, State of Louisiana.

8.

As required by 28 U.S.C. §1446(a), copies of all process, pleadings, and orders served upon Preload are being filed with this Notice of Removal.⁶

WHEREFORE, Preload, LLC prays that further proceedings in the 14th JDC for the Parish of Calcasieu, State of Louisiana, be discontinued and that the suit be removed to the United States District Court for the Western District of Louisiana.

⁵ Exhibit “A” – Petition, paras. 6, 7 and 11.

⁶ Exhibit “D” - Copies of all pleadings served.

Respectfully submitted,

NEUNER PATE

/s/ Ben L. Mayeaux

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Attorneys for Preload, LLC

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing has this date been served on all parties and counsel of record in this proceeding through electronic transmission and/or U.S. Mail.

Lafayette, Louisiana on the 17th day of February, 2021.

/s/ Ben L. Mayeaux

Counsel